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INTRODUCTION

In accordance with the City Auditor's 1991-92 Audit Workplan, we have audited the operations of the San Jose Police Department's Property and Evidence Unit (Property Room). We conducted this audit in accordance with generally accepted government auditing standards and limited our work to those areas specified in the Scope and Methodology section of this report.

The City Auditor's Office thanks those individuals in the San Jose Police Department who gave their time, information, insight, and cooperation. Specifically, we would like to thank the individuals assigned to the Property and Evidence Unit for their outstanding responsiveness to our many requests for information.

BACKGROUND

The San Jose Police Department Property and Evidence Unit (Property Room) is the repository for property held in connection with criminal investigations. Property Room personnel are also responsible for the safekeeping of property found by citizens and relinquished to the Police Department.

The California State Penal Code, the California Civil Code, and the San Jose Municipal Code establish how property is to be maintained and recorded when it comes into the custody of the San Jose Police Department (SJPd). The following Penal Code Chapters state how property is to be maintained and recorded:

1. Chapter 12. Disposal of Property Stolen or Embezzled, Sections 1407 through 1413;
2. Chapter 13. Disposition of Evidence in Criminal Cases, Sections 1417 through 1418; and
3. Chapter 14. Disposition of Unclaimed Money Held by District Attorney or Court Clerk, Sections 1420 through 1422.

Title 2 of the Penal Code addresses the control of deadly weapons, and Chapter 3 of the California Civil Code relates to the handling of firearms in the possession of a mental patient. Chapter 4 of the California Civil Code relates to the handling of lost and unclaimed property.

Chapter 2.28 of the San Jose Municipal Code describes how property delivered to the SJPd is to be maintained and how it may eventually become the property of the City of San Jose. In accordance with the Municipal Code, the Chief of Police is responsible for transferring to the Director of General Services unclaimed SJPd property for her disposition. The Director of General Services may dispose of the property as follows:

- Retain for public use;
- Sell at public auction; or
- If unsold, destroy or dispose of otherwise.

The SJPD Property Room is under the direction of the Bureau of Administration. The Property Room is staffed with 20 non-sworn SJPD personnel. The objectives of the Property Room are to:

1. Receive, store and safeguard property coming into the possession of the SJPD;
2. Maintain safe levels of stored property;
3. Dispose of property in an expeditious manner according to laws, ordinances, and SJPD policies;
4. Maintain the integrity of police evidence;
5. Maintain an accurate inventory of SJPD equipment; and
6. Maintain a central supply for the dissemination and receipt of equipment, supplies, and property utilized by SJPD members.

Major Accomplishments Relating To The Retention Of Evidence, Found Property, And Property Held For Safekeeping

In Appendix B, the SJPD informed the Office of the City Auditor of its major accomplishments relating to the retention of evidence, found property, and property held for safekeeping. According to the Chief of Police, the SJPD has taken steps to improve its internal controls over the Property Room. Specifically, the SJPD has developed or is in the process of developing the following.

- A dual access system to the money vault has been installed. The system requires two separate electronically-coded keys to gain entry to the vault.

- The Crime Evidence section has a bar code property tracking system, making for easy retrieval of information on all items stored in the property system.
- All money has been inventoried and sealed in plastic, tamper-proof bags.
- New gun racks and cabinets have been constructed and installed, and all guns are in the process of being inventoried and bar-coded.
- An ongoing inventory of all bicycles is being kept and used to identify bicycles ready to be auctioned.
- The computer program will store historical information on tape as long as the information is needed.
- All narcotics cases have been inventoried and entered into the computer. The Narcotics section of the Property and Evidence Unit has a narcotics tracking system that keeps an accurate inventory and the current status of all narcotic items.
- Plans have been made for the construction and installation of a walk-in freezer to store biological evidence.
- The Property Warehouse has been relocated, a move that has added to its storage capabilities.

In addition, we conducted a survey of the San Jose Police Officers (both patrol and investigators) who use the Property Room. We received 153 completed surveys. Over 80 percent of the respondents indicated they were satisfied with the services provided for booking and withdrawing evidence.

SCOPE AND METHODOLOGY

This is the second report on our audit of the Police Department Property and Evidence Unit (Property Room) and related City operations. Our objectives were

- To determine the adequacy of the policies and procedures that the San Jose Police Department (SJPd) follows in the retention of evidence, found property, and property held for safekeeping and/or disposing of said property.
- To determine whether SJPd controls over the retention of evidence, found property, and property held for safekeeping are in place and working effectively.

We reviewed the SJPd's policies and procedures for the handling of evidence, found property, and property held for safekeeping. We reviewed files relating to the retention of property and reviewed the ledgers associated with the recording of incoming and outgoing property. We reviewed the backup and recovery contingency planning for the EVITRAX computerized software system currently used by the Property Room. We interviewed Property Room personnel, City of San Jose Police Officers, other Cities' Property Room supervisors, a Drug Enforcement Agency (DEA) Forensic Chemist, a Supervising Criminologist from the Alameda County Crime Laboratory, the Assistant Director of the Santa Clara County Crime Laboratory, and two members of the Santa Clara County District Attorney's Office. Audit staff observed the process of preparing narcotics for destruction and the destruction of narcotics on November 20, 1991 and December 18, 1991. We weighed a sample of narcotic items from the narcotic's safe and the bulk marijuana storage location.

In addition, audit staff test counted a statistically selected sample of money in the Property Room safe. We also accounted for the property that was

transferred back to the SJPD for use in daily operations. In addition, on a statistical basis we test-counted items from the following evidentiary groups in the Property Room inventory:

1. Jewelry;
2. Homicide;
3. All property for the period July 1, 1991 to August 31, 1991, and all property for the period October 1, 1991 to November 30, 1991; and
4. All property prior to May 1989¹ that had not been entered into the EVITRAX Property Tracking System.

Finally, we surveyed police officers to determine their level of satisfaction with the services they receive from Property Room personnel.

We limited our audit to the Property Room section of the SJPD. Our audit did not extend to the Photo Lab or Central Supply, which are the other two sections within this unit.

¹Prior to May 1989 all property was entered manually, although currently all jewelry, homicide evidence, and money cases have been entered into the computer.

FINDING I

THE SAN JOSE POLICE DEPARTMENT NEEDS TO IMPROVE THE SECURITY OVER ITS COMPUTERIZED NARCOTICS AND PROPERTY TRACKING SYSTEMS

The San Jose Police Department (SJPD) uses two computerized systems to maintain custody over SJPD Property & Evidence Unit (Property Room) items—a Narcotics Evidence Tracking System and an EVITRAX Property Tracking System. Our review revealed lax security over these two systems. Specifically, we identified the following:

- Both systems lack adequate password protection;
- Neither system has an adequate audit trail to document access to or modifications of its database;
- The EVITRAX system's database is cluttered with information on closed cases that should be archived;
- The EVITRAX system lacks adequate backup and recovery contingency plans and has inaccurate information in its database; and
- Information in the EVITRAX system is unnecessarily replicated in manual records.

The SJPD can improve the security over its computerized processing systems and improve operational efficiency by periodically changing the systems' database passwords, improving database access and modification documentation, archiving database information for closed cases, establishing a backup and contingency plan for the EVITRAX system, immediately updating the EVITRAX database for property status changes, and eliminating unnecessary duplicate property records.

The Narcotics Evidence And Property Tracking Systems

The Narcotics Evidence Tracking System is used to enter new case information involving narcotics, to update locations, and to keep track of the status of each narcotics case. The Narcotics Evidence Tracking System was updated in July 1989 and is networked into the SJPd's VAX 3300 computer system. The Narcotics Evidence Tracking System has five files for storing data: (1) the EVIDENCE FILE contains all current records; (2) the HISTORY FILE contains all records now destroyed or transferred out; (3) the SUSPECTS FILE contains all past and present suspects; (4) the CASE-LOG FILE contains all case number changes; and (5) the OLD-BURNS FILE is a reduced information file to record burns of narcotics that took place before the implementation of the tracking system. There are approximately 25,000 records in the Narcotics Evidence Tracking System active evidence file database.

The EVITRAX Property Tracking System is a Local Area Network (LAN) and is not networked into any other computer system in the City of San Jose. The EVITRAX system is a database used to track all property other than narcotics. The EVITRAX system computer is located in the main Property Room in the basement of the Health Building. In August 1991, the existing system was updated with new software (EVITRAX). There are approximately 35,000 records in the EVITRAX Property Tracking System's database.

Inadequate Password Protection

The password codes for the Narcotics Evidence Tracking System have not been updated since 1989. For all individuals using the Narcotics Evidence Tracking System, the current password codes consist of a user name and one other password. The procedure for using the user name and password is explained in the

Narcotic's Property Room procedure manual. There are three copies of this manual in the Narcotics Property Room. Our audit revealed that one manual is locked in the narcotics vault, while the other two manuals are in general view in the Central Supply section of the Narcotics Property Room. With a copy of this manual, anyone can access the Narcotics Evidence Tracking System.

For the EVITRAX System database, two password codes are necessary to gain access. One is the employee's badge number and the other is a password assigned to the employee. Once the password is assigned, it is up to the employee to change it. There is no set procedure or time period for changing the password.

Inadequate Audit Trails

Both the Narcotics Evidence Tracking System and the EVITRAX system lack an audit trail program. Without such a program, there is no record of who has logged on and off the system or what changes were made to the system's database.

There are four individuals who have access to the Narcotics Evidence Tracking System and ten who have access to the EVITRAX system. Our audit revealed that there is no way to determine when one of these individuals has accessed one of the systems or what modifications were made to the database. This lack of security over these databases means that certain individuals could misuse or misappropriate the property in the Narcotics Evidence Tracking System or the EVITRAX system and conceal their actions by modifying the information in the two system databases.

The SJPD can improve security over its Narcotics Evidence Tracking System and the EVITRAX system by changing the systems' database passwords and improving the documentation of database access and modification.

The EVITRAX Property Tracking System Database Contains Information That Should Be Archived

The EVITRAX system's active database contains records for closed cases and for property that was disposed of through destruction, returned to its owner, transferred to treasury, or auctioned. As a result, database searches are unnecessarily slow and printed output is difficult to read and understand and is unduly voluminous.

By archiving database information for closed cases, the Property Room can remove information from the database, allowing the database to run more efficiently. This will save staff and computer time and eliminate unnecessary expenditures.

The EVITRAX System Lacks Adequate Backup And Recovery Plans And Has Inaccurate Information In Its Database

Inadequate Backup and Recovery Plans

Backup and recovery contingency plans allow information systems to resume operation in the event of an interruption or catastrophe. These plans are required at three levels—emergency, backup, and recovery—to provide for the three processes which information systems processing may go through in the event of an interruption in service—immediate response, fall-back, and recovery from the fall-back position.

Emergency plans take into account a wide variety of emergency responses for the protection of life and property and usually come into effect as a result of a physical threat to the facility—a bomb scare, fire, or power outage, for instance. An

emergency plan is therefore a plan for "immediate response" to an emergency situation.

Backup plans are designed to ensure that, in the event of a service interruption, there will be resources available to the facility to enable it to continue to operate. The plan should address such questions as (1) whether backup power supply will be invoked, (2) whether a move to the backup facility will occur, and (3) whether backup files will be retrieved from off-site storage. The plan should also provide an alternative procedure for the completion of critical jobs following an interruption or loss of the computer configuration required to successfully complete such critical jobs. The development of a realistic backup plan requires identification of the critical processing functions and the resources necessary to support these functions. These resources would generally include hardware, software, personnel, data, special forms, and system and operating documentation.

A recovery plan is the logical follow-up to the backup plan. Given the resources and data provided by the backup plan, the recovery plan would describe the steps necessary to resume operations the way they were prior to the service outage. These individual component plans (emergency, backup, and recovery) together compose the procedures necessary to resume normal service following a disruption in operations.

Our review revealed that backup and recovery contingency planning for the EVITRAX system is inadequate. Specifically, backup tapes are kept beside the computer instead of at an off-site storage location, and a contingency plan is not documented. As a result, if a local disaster occurs, the Property Room may not be able to recover its records. There should be procedures to allow information systems processing to resume operations in the event of an interruption.

The SJPD's Information Systems Division should develop backup and contingency plans for the EVITRAX System in order to protect the information in its database against loss due to interruption or catastrophe.

Inaccurate Information In The Database

Our inventory of the Property Room disclosed that not all of the records in the EVITRAX system database are complete or accurate. The inventory was done on a sample basis only, as time would not permit us to observe a complete inventory of the more than 70,000 cases maintained in the Property Room. On a statistical basis, we test sampled a population of 20,000 plus cases of evidence or property. For the purpose of our test, we sampled the items from the following evidentiary groups in the EVITRAX database:

1. Jewelry cases - 107 items of 1,823;
2. Homicide cases - 103 items of 1,093;
3. General property cases (in database) - 113 items of 9,616; and
4. General property cases (not in database) - 100 items of approximately 12,500.

For Groups 1 through 3 above, our sample size produced a confidence level of 95 percent with a precision of ± 4 percent. For Group 4, our sample size produced a confidence level of 90 percent with a precision of ± 4 percent.

Our test produced the following results:

- Jewelry cases had five exceptions. The database showed five items as being in the safe when in fact they had been returned to the owner or auctioned off prior to our inventory. We found all 107 items or determined they had been returned to the owner or sent to auction. The

cause of the discrepancies we noted was that the EVITRAX database is not updated on a current basis.

- Homicide cases had two computer input errors—two case numbers were wrong. We found all of the 103 items sampled or determined they had been returned to the owner or destroyed.
- Nine errors in general property were entered in the EVITRAX Property Tracking System database. These errors were both computer errors and location errors. For example, the computer showed an item at one location when in fact it was at another location. Also, the computer showed items as being on hand when the item had been returned to the owner. The majority of the errors were caused by time delays in updating the computer records after an item had been released.
- One error in general property was not entered in the EVITRAX Property Tracking System database. The Property Form showed the property in the Property Room when it was actually out at court.

Based on our inventory sample, the SJPD can address the inaccuracies shown above by immediately updating the EVITRAX database for property status changes.

**Information In The EVITRAX System
Is Unnecessarily Replicated In Manual Records**

The Property Room keeps duplicate sets of evidence and property records: one set in manual records (Property Report and the property log book) and the other in the EVITRAX system database. Keeping duplicate sets of records is inefficient and may be counterproductive if the two records do not agree.

According to the California Penal Code Section 1413,

The clerk or person having charge of the property section for any police department in any incorporated city or town, or for any sheriff's department in any county, shall enter in a suitable book a description of every article of

property alleged to be stolen or embezzled, and brought into the office or taken from the person of a prisoner, and shall attach a number to each article, and make a corresponding entry thereof. He may engrave or imbed an identification number in property described in Section 537e for the purposes thereof.

In response to a City Auditor request, the City Attorney's Office opined that *"We believe the keeping of a computer database with a hard copy would adequately comply with the requirement of Penal Code Section 1413(a). The computer database and the hard copy must contain all of the information required under the Penal Code."*

It would be more efficient for the SJPd to record incoming property directly into the EVITRAX Property Tracking System database instead of using the current procedure, which is to fill out the Property Report and the log book and then use the EVITRAX system.

CONCLUSION

Our audit of the SJPd's Property Room Narcotics Evidence Tracking System and the EVITRAX Property Tracking System revealed lax security over these two computer database systems. Specifically, we identified the following:

- Both systems lack adequate password protection;
- Neither system has an adequate audit trail to document access to or modifications of its database;
- The EVITRAX system's database is cluttered with information on closed cases that should be archived;
- The EVITRAX system lacks adequate backup and recovery contingency plans and has inaccurate information in its database; and
- Information in the EVITRAX system is unnecessarily replicated in manual records.

The SJPd can improve the security over its computerized processing systems and improve operational efficiency by (1) periodically changing the systems' database passwords, (2) improving database access and modification documentation, (3) archiving database information for closed cases, (4) establishing a backup and contingency plan for the EVITRAX system, (5) immediately updating the EVITRAX database for property status changes, and (6) eliminating unnecessary duplicate property records.

RECOMMENDATIONS

We recommend that the San Jose Police Department:

Recommendation #1:

Assign employees their own passwords to access the Narcotics Evidence Tracking System and have the passwords changed on a regular basis for both the Narcotics Evidence Tracking System and the EVITRAX Property Tracking System. (Priority 2)

Recommendation #2:

Develop a computerized audit trail to document database access and modifications to the Narcotics Evidence Tracking System and EVITRAX Property Tracking System. (Priority 3)

Recommendation #3:

Have employees trained in the proper use of the archival system and have all inactive records in the EVITRAX Property Tracking System database archived. (Priority 3)

Recommendation #4:

Establish and document a contingency plan for the EVITRAX Property Tracking System. This plan should include the required three levels (emergency, backup, and recovery) of an information system's contingency plan. The plan should include such things as off-site storage of backup tapes for both transactions and programs. (Priority 2)

Recommendation #5:

Immediately input into the EVITRAX Property Tracking System information about released or received/returned property and update the property reports on a regular basis. (Priority 3)

Recommendation #6:

Maintain one set of records but ascertain that controls are in place to ensure accuracy and completeness of the records. Establish input controls to ensure that all the information on the Property Form is entered into the EVITRAX Property Tracking System correctly. (Priority 3)

Recommendations Requiring Budget Action

Of the preceding recommendations, #6 cannot be implemented without additional funding. Accordingly, subject to City Council approval of this recommendation, the City Manager should include in the City Manager's Proposed Operating Budget for 1993-94 an amount sufficient to implement Recommendation #6.

FINDING II

THE SAN JOSE POLICE DEPARTMENT'S POLICIES REGARDING INSPECTIONS AND AUDITS OF THE NARCOTICS VAULT AND AUDITS AND INSPECTIONS OF CASH IN THE PROPERTY ROOM ARE NOT BEING FOLLOWED

The San Jose Police Department (SJPd) has policies that require unscheduled quarterly inspections of the narcotics stored in the narcotics storage area and monthly spot inspections and quarterly audits of SJPd's Property and Evidence Unit (Property Room) cash and money transactions. However, our audit revealed a general noncompliance with the SJPd's policies. As a result, the SJPd is exposed to the misuse or misappropriation of the narcotics or cash in the Property Room. The SJPd can reduce its exposure to these risks by adhering to already existing policies.

Policies Require Quarterly Unscheduled Inspections Of Narcotics And Audits Of Cash And Monthly Spot Inspections Of Cash And Money Transactions

In January 1986, the Commander of the Narcotics/Covert Investigation (NCI) Unit drafted a memorandum to then Police Chief Joseph D. McNamara recommending that unscheduled narcotics inspections be done quarterly. His recommendation read as follows:

*Currently inspections of the narcotic storage area take place once a year.
... In the future the Narcotics Unit will conduct quarterly inspections as a
further security measure.*

On March 3, 1986, the Police Chief accepted this recommendation with the understanding it would be implemented immediately.

Further, the Property Room policy and procedure manual states:

1. The Senior Police Property Specialist will conduct random spot inspections to check the accuracy of all money transactions. These spot checks will be completed on a monthly basis and the results reported to the Police Property Supervisor;
2. At least ten cases will be randomly selected for inspection each month;
3. The Police Property Supervisor will also be responsible for conducting inspections once every four months and the results reported to the Captain of the Bureau of Administration; and
4. The Department's Fiscal Division will conduct periodic unannounced audits at least quarterly.

Furthermore, the City's Finance Administrative Manual sets forth general guidelines for cash handling procedures. Section 4.0.4.2 (7) reads as follows:

A department must provide for periodic spot audits of all cash handling locations and field collections. An employee in the department's administrative fiscal unit could perform such an audit. The results of these audits must be reported to the Department Director. Major exceptions must be reported to the Director of Finance and the City Auditor.

General Noncompliance With Policies

Our audit revealed the unscheduled narcotics inspections are not done quarterly. Since January 1986, inspections have been done five times as follows:

- October 1987
- October 1990
- January 1991
- October 1991
- March 1992

It should be noted that, according to the SJPd officer in charge of the NCI Unit, in addition to the inspections shown above, the SJPd conducted narcotics burns in:

- June 1991
- November 1991
- December 1991
- June 1992

Further, according to the SJPd, these burns constitute narcotics inspections and demonstrate compliance with the inspection procedures for the last two years. However, in our opinion, narcotic burns are not a substitute for the procedurally-required narcotics inspections because the burns are not "unscheduled" and apply only to those narcotics to be destroyed.

Cash audits and inspections are not being done as required by policy. The cash audits that have been done the past few years are as follows:

- October 21, 1986
- January 5, 1987
- March 11, 1987
- May 7, 1987
- August 6, 1987
- March 29, 1988
- July 6, 1988
- September 19, 1991

Further, the Senior Police Property Specialist's and the Police Property Supervisor's cash inspections are not formalized. Specifically, the Senior Police Property Specialist and the Supervisor perform cash inspections as a routine part of

their jobs but do not document their inspections. Finally, the last time the money in the Property Room safe was completely counted (inventoried) was January 1990.

Exposure To Misuse Or Misappropriation Of Narcotics And Cash

Without unscheduled quarterly narcotics and cash audits and monthly inspections of cash and money transactions, narcotics and cash could be exposed to misuse or misappropriation.

During our audit of the Property Room, we observed the destruction of narcotics twice. Narcotics valued at approximately \$3,681,000 were destroyed. Both times we conducted sample weight tests for the different types of narcotics. Audit weights indicated a difference between our weighing and the last weight on the evidence envelope. The highest weight variance we noted was the bulk marijuana's. In one case, a container of 4.25 pounds of marijuana lost 3.50 pounds (82.35 percent) of its original weight. Another box of bulk marijuana lost 12.75 pounds (75 percent) of its original 17 pounds. This was a whole plant in a sealed box. The bulk marijuana weight variance ranged from a low of zero to a high of 12.75 pounds. Percentage weight variances were from zero percent to 82.35 percent. The average weight variance was 38.41 percent for the bulk marijuana and 8.62 percent for the nonbulk marijuana. The street value of the average weight variance of marijuana is approximately \$6,800 if sold by the pound and approximately \$9,000 if sold by the ounce.

Based upon inquiries we made of various crime laboratories, there is no consensus about the amount of weight variance one should expect between freshly harvested and dry marijuana. The local laboratories and property rooms we

contacted do not keep figures on the weight variance between the two types of marijuana. However, a Senior Forensic Chemist with the Drug Enforcement Agency (DEA) told audit staff that the weight variance between wet and dry marijuana could be as high as 80 to 85 percent and that the scales used to weigh the narcotics should be calibrated on a regular basis.

The Property Room uses two small electronic scales and one large professional (doctor's office type) scale to weigh narcotics. The two electronic scales are used to weigh small amounts of narcotics while the large scale is used to weigh bulk marijuana. According to a SJPD Captain in the Bureau of Investigations, the two electronic scales tend to be inaccurate because of their age, voltage draw, protective covering, and location. Both electronic scales are over ten years old. He also noted that the larger scale is only accurate to the quarter pound.

The SJPD stores bulk marijuana in a satellite storage location. This location is alarmed and only four individuals have access to it. Each time one of the authorized individuals enters the storage location, they have to deactivate the alarm. However, even with this system, once inside this storage location the property room employee has free access to any and all of the bulk marijuana items.

The majority of bulk marijuana boxes are not sealed. Masking tape is used on the few boxes that are sealed. The masking tape tends to deteriorate (peel and dry out) in a matter of months. The boxes sealed with masking tape can be opened with little effort once the masking tape starts to deteriorate.

A better adhesive tape for sealing bulk marijuana boxes would be either duct tape or reinforced packing tape. These types of tape will not deteriorate as readily as masking tape. Also, unlike masking tape, duct or reinforced packing tapes leave physical evidence such as damage when someone opens a bulk marijuana box.

Such physical evidence could deter unauthorized access to the contents of the boxes.

The larger storage boxes have slots cut in the sides of them to facilitate the drying of the plant. These slots are big enough so a person could easily pull the marijuana out of the box through the slots. Furthermore, the marijuana would not be missed as the large variances that occur in the drying process are assumed to be just that--drying process losses.

In our opinion, by changing the type of tape it uses to seal bulk marijuana storage boxes, the SJPd could improve its security over the bulk marijuana being held for evidence.

Finally, in January 1986, a cash theft of over \$10,000 occurred in the Property Room. This cash theft was one of the reasons for initiating the monthly inspections of cash and money transactions and quarterly cash audits and demonstrates the need for adhering to the SJPd's policies regarding cash inspections and money transactions and quarterly cash audits.

CONCLUSION

Our audit of the SJPd's Property Room revealed that unscheduled inspections of the narcotics stored in the narcotics storage area and monthly spot inspections and quarterly audits of Property Room cash and money transactions are not done in compliance with the SJPd's policies. The SJPd can reduce its exposure to the risks of misuse and misappropriation by adhering to already existing policies.

RECOMMENDATIONS

We recommend that the San Jose Police Department:

Recommendation #7:

Conduct inspections of the narcotics vault on a regular basis as prescribed in the San Jose Police Department's Policies and Procedures Manual and use either a duct or reinforced packing tape for sealing bulk marijuana boxes. (Priority 3)

Recommendation #8:

Acquire new and more accurate scales to weigh narcotics and calibrate those scales on a regular basis. (Priority 3)

Recommendation #9:

Conform to the San Jose Police Department's policies and procedures for cash inspections, money transactions, and quarterly cash audits. (Priority 3)

Recommendations Requiring Budget Action

Of the preceding recommendations, #8 cannot be implemented without additional funding. Accordingly, subject to City Council approval of this recommendation, the City Manager should include in the City Manager's Proposed Operating Budget for 1993-94 an amount sufficient to implement Recommendation #8.

FINDING III

THE SAN JOSE POLICE DEPARTMENT NEEDS TO IMPROVE ITS CONTROLS FOR UNCLAIMED PROPERTY RETURNED FOR INTERNAL USE

The San Jose Police Department (SJPd) turns unclaimed property from the SJPd's Property and Evidence Unit (Property Room) over to the Department of General Services (General Services) for storage and ultimate disposition. Currently, the SJPd is one of only two City of San Jose (City) departments that request unclaimed property for their own internal use. Our Audit of the Property Room included a test inspection of the unclaimed property the SJPd has retained for its use. The results of our inspection were that we could not locate 3 of the 73 items we selected for testing. The SJPd can improve its control over the unclaimed property it uses internally by periodically taking an inventory of these items and adopting other procedures. In addition, the City could save money if other City departments were allowed to request unclaimed property from General Services.

The San Jose Police Department Turns Unclaimed Property Over To General Services

The San Jose Municipal Code (Code) provides for the transferring of property in the Property Room that goes unclaimed. Specifically, Code Section 2.28., states in part:

If no owner appears and proves ownership of the property within four months, such property shall be returned by the chief of police to the finder after approval has been granted, and thereafter, unless otherwise authorized by the director of general services, such property shall not be redeemable by the owner or other person. If the finder does not take possession of the unclaimed property within two months after expiration of the four-month time period allowed for the owner to claim the property, such property shall be transferred by the chief of police to the director of general services. The director of

general services may order such property to be returned to the finder thereof if he deems such return to be in the public interest.

On a regular basis, the SJPD transfers unclaimed property from its Property Room to General Services. Property Room personnel move and segregate all unclaimed property approved for release to General Services for auction. A General Services representative, usually the Stores Supervisor, inventories the property and signs a receipt (called the Transfer of Unclaimed Property form) for the property.

**The San Jose Police Department Is One
Of Only Two City Departments That Request
Unclaimed Property For Their Own Internal Use**

The Code provides for the disposition of property in the Property Room that goes unclaimed. Specifically, Code Section 2.28., states in part:

Section 2.28.060 Disposition of property.

A. If the director of general services determines that any such property transferred to him is needed for public use, such property may be retained by the city and need not be sold.

B. If the director of general services determines that such property is not needed for public use, it shall be sold at public auction...

C. Any property remaining unsold after being offered at such public auction may be destroyed or otherwise disposed of by the director of general services.

The SJPD and the Recreation, Parks and Community Services (RPCS) are the only City departments that acquire unclaimed property. Since January 1991, the SJPD has received approximately \$35,000 worth of unclaimed property. This property is used in different units within the SJPD. The unit may use the property to conduct its normal business activity or the property may be used in a covert

operation or "sting." This property includes computers, cameras (video and still), stereos, television sets, tools and other miscellaneous items.

Test Inspections Of Unclaimed Property

We test inspected unclaimed property the SJPD retained for internal use. Our inspection included an audited inventory of 73 of the 211 pieces of unclaimed property the SJPD retained. In selecting the sample, the value, ease of theft (size), popularity, and the receiving unit were taken into consideration. The sample selected represents the different types of unclaimed property the SJPD has retained since January 1991.

Of the 73 pieces of unclaimed property tested, we were unable to locate the following three pieces:

- Kenwood CD player - Serial #91131064;
- Kenwood CD turner - Serial #91004243; and
- G. E. stereo radio cassette recorder - Serial #000504401743.

All three missing pieces of property were under the control of the Narcotics/Covert Investigations (NCI) Unit. The NCI unit received the unclaimed property for use in sting operations. According to the NCI Sergeant in charge of the sting property, one of the pieces of missing property (the G. E. stereo radio cassette recorder) was left in an undercover vehicle that has been sold. The Police Sergeant thinks that the other two pieces of property were used in stings and not recovered when the arrest was made. He stated, *"This could happen as the arrestee could have purchased the property during the sting and resold or traded it before the sting was complete and the arrest made."* He noted that this was quite common, as the arrest is not always made immediately after the exchange (money

or drugs for the property) takes place. In our opinion, the SJPd should conduct periodic inventories of the unclaimed property it retains for its NCI Unit.

**The City Of San Jose Could Save Money By Making
Unclaimed Property Available To All City Departments**

As noted earlier in this report, the SJPd and the RPCS are the only two departments acquiring unclaimed property from General Services. Our review indicated other City departments are not requesting the unclaimed property and do not appear to know that unclaimed property is available for them to request.

The City of San Diego has a program to convert impounded and unclaimed property to City property. The requesting department fills out a "Request For Conversion Of Impounded Property To City Property Inventory," form. Each piece of property requested needs a completed form including the need for the requested property. The department's request is based on need, not what is available in the Property Room, and the property is issued on a first-come, first-served basis. When the requested property becomes available, a determination is made that the department still needs the property. In our opinion, an approach similar to the City of San Diego's could be implemented in San Jose. Specifically, General Services could send a memo to other City departments alerting them of the availability of unclaimed property. City departments could then provide General Services with a "wish list" of needed property. When General Services picks up property stored in the Property Room for auction, it could segregate those items departments have requested, take them back to the General Services' warehouse and notify the requesting department that property is available for inspection and use if still needed. This practice could save money for the City.

In our opinion, unclaimed property should be made available to all City departments and General Services should develop a set of procedures to facilitate administering such a program.

CONCLUSION

Our audit of the SJPd's Property Room revealed that the SJPd can improve its control over unclaimed property it uses internally by periodically taking an inventory of these items and adopting other procedures. In addition, the City could save money if other City departments were allowed to request unclaimed property.

RECOMMENDATIONS

We recommend that the San Jose Police Department:

Recommendation #10:

Require that someone other than the Narcotics/Covert Investigations officer in charge of the "sting" property conduct periodic inventories of that property.
(Priority 3)

Recommendation #11:

Work with the Department of General Services to develop procedures to increase City department requests for and ultimate use of unclaimed property.
(Priority 2)

FINDING IV

THE CITY OF SAN JOSE SHOULD PURSUE THE RETURN OF ABOUT \$44,000 IN UNCLAIMED CASH FROM CLOSED CASES THAT THE CITY REMITTED TO SANTA CLARA COUNTY BETWEEN MARCH 24, 1991 AND JANUARY 9, 1992

Historically, the City of San Jose (City) has retained possession of fairly significant amounts of unclaimed cash from closed cases. However, on or about March 24, 1991, the Santa Clara County District Attorney ordered that, in the future, unclaimed cash from closed cases be turned over to Santa Clara County (County). The City and County recently agreed that the City will continue to retain possession of unclaimed cash from closed cases. However, the City needs to pursue the return of about \$44,000 in unclaimed cash it remitted to the County from March 24, 1991 to January 9, 1992.

Unclaimed Cash From Closed Cases

Historically, the City has retained possession of unclaimed cash from closed cases. Between January 3, 1990 and January 8, 1992, the San Jose Police Department (SJPd) transferred \$276,000 in unclaimed cash to the City Treasury; and in 1991-92, the SJPd deposited \$107,000 from 650 closed cases with the City Treasury.

Santa Clara County District Attorney Ordered That Unclaimed Cash Be Remitted To The County

On or about March 24, 1991, the Santa Clara County District Attorney's Office wrote a standardized court order for the SJPd's Bureau of Investigations. In part, this order states:

(1) all property seized pursuant to a Search Warrant be turned over to the lawful owner; (2) all property seized pursuant to a Search Warrant be turned over to the City of San Jose if the lawful owner cannot be found; (3) All property seized pursuant to that Search Warrant which constitutes contraband and/or volatile materials that are unlawful to possess, or pose a danger to the public health and safety be destroyed by the San Jose Police Department in accordance with their standard procedures; (4) It is further ordered, that in the event the San Jose Police Department and/or the City of San Jose are holding any unclaimed fund from a closed case, . . . [the funds are to] be turned over to the Santa Clara County District Attorney's Office. . . . [Emphasis added].

As a result, about \$140,000 in unclaimed cash seized annually pursuant to a search warrant that the City used to retain would be turned over to the County. For example, under the above court order, from March 24, 1991 to January 9, 1992, the City turned over about \$44,000 in unclaimed cash from 40 closed cases to the County.

**The City And County Have Agreed That
The City Will Continue To Retain Unclaimed Cash**

On February 12, 1992, the City Auditor's Office discussed this issue with the San Jose City Attorney's Office. Subsequent discussions revealed that the City Attorney's Office was pursuing this matter with the Santa Clara County District Attorney's Office. On July 7, 1992, the City Attorney's Office advised the City Auditor's Office that the issue of unclaimed cash has been resolved with the Santa Clara County District Attorney's Office. Specifically, the Santa Clara County District Attorney's Office has agreed that the County is not entitled to unclaimed cash seized pursuant to a search warrant. As a result, the City will continue to retain unclaimed cash from closed criminal cases. However, in our opinion, the City should pursue the return of about \$44,000 in unclaimed cash it remitted to the County from March 24, 1991 to January 9, 1992.

CONCLUSION

Our audit of the SJPd's Property Room revealed that in response to a March 24, 1991 Court Order, the City remitted about \$44,000 in unclaimed cash to the County. The City had retained such unclaimed cash prior to the Court Order. The City and County recently agreed that the City will continue to retain possession of unclaimed cash from closed cases. However, the City needs to pursue collection of the \$44,000 it turned over to the County between March 24, 1991 and January 9, 1992.

RECOMMENDATION

We recommend that the San Jose Police Department:

Recommendation #12:

Provide the City Attorney with the case numbers associated with the \$44,000 in unclaimed cash remitted to Santa Clara County for the purpose of securing reimbursement. (Priority 1)

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